

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as an Effective Date of 2003 Amendment note under section 62 of this title.

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

Provisions relating to inflation adjustment of items in this section for certain years were contained in the following:

- 2012—Revenue Procedure 2011-32.
- 2011—Revenue Procedure 2010-22.
- 2010—Revenue Procedure 2009-29.
- 2009—Revenue Procedure 2008-29.
- 2008—Revenue Procedure 2007-36.

§ 224. Cross reference

For deductions in respect of a decedent, see section 691.

(Aug. 16, 1954, ch. 736, 68A Stat. 72, §217; renumbered §218, Pub. L. 88-272, title II, §213(a)(1), Feb. 26, 1964, 78 Stat. 50; renumbered §219, Pub. L. 92-178, title VII, §702(a), Dec. 10, 1971, 85 Stat. 561; renumbered §220, Pub. L. 93-406, title II, §2002(a)(1), Sept. 2, 1974, 88 Stat. 958; renumbered §221, Pub. L. 94-455, title XV, §1501(a), Oct. 4, 1976, 90 Stat. 1734; renumbered §222, renumbered §223, Pub. L. 97-34, title I, §§103(a), 125(a), Aug. 13, 1981, 95 Stat. 187, 201; renumbered §220 and amended Pub. L. 99-514, title I, §135(b)(1), title III, §301(b)(5)(A), Oct. 22, 1986, 100 Stat. 2116, 2217; renumbered §221, Pub. L. 100-647, title VI, §6007(a), Nov. 10, 1988, 102 Stat. 3687; renumbered §220, Pub. L. 101-508, title XI, §11802(e)(2), Nov. 5, 1990, 104 Stat. 1388-530; renumbered §221, Pub. L. 104-191, title III, §301(a), Aug. 21, 1996, 110 Stat. 2037; renumbered §222, Pub. L. 105-34, title II, §202(a), Aug. 5, 1997, 111 Stat. 806; renumbered §223, Pub. L. 107-16, title IV, §431(a), June 7, 2001, 115 Stat. 66; renumbered §224, Pub. L. 108-173, title XII, §1201(a), Dec. 8, 2003, 117 Stat. 2469.)

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.

AMENDMENTS

2003—Pub. L. 108-173 renumbered section 223 of this title as this section.

2001—Pub. L. 107-16, §§431(a), 901, temporarily renumbered section 222 as this section. See Effective and Termination Dates of 2001 Amendment note below.

1997—Pub. L. 105-34 renumbered section 221 of this title as this section.

1996—Pub. L. 104-191 renumbered section 220 of this title as this section.

1990—Pub. L. 101-508 renumbered section 221 of this title as this section.

1986—Pub. L. 99-514, §135(b)(1), renumbered section 223 of this title as this section.

Pub. L. 99-514, §301(b)(5)(A), amended section generally, substituting “reference” for “references” in section catchline, striking out par. (1) which referred to section 1202 for deduction for long-term capital gains in the case of a taxpayer other than a corporation, and striking out par. (2) designation.

1981—Pub. L. 97-34 successively renumbered sections 221 and 222 of this title as this section.

1976—Pub. L. 94-455 renumbered section 220 of this title as this section.

1974—Pub. L. 93-406 renumbered section 219 of this title as this section.

1971—Pub. L. 92-178 renumbered section 218 of this title as this section.

1964—Pub. L. 88-272 renumbered section 217 of this title as this section.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-173 applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as a note under section 62 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to payments made in taxable years beginning after Dec. 31, 2001, see section 431(d) of Pub. L. 107-16, set out as a note under section 62 of this title.

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 301(b)(5)(A) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99-514, set out as a note under section 62 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11802(e)(2) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

PART VIII—SPECIAL DEDUCTIONS FOR CORPORATIONS

Sec.	
241.	Allowance of special deductions.
[242.]	Repealed.]
243.	Dividends received by corporations.
244.	Dividends received on certain preferred stock.
245.	Dividends received from certain foreign corporations.
246.	Rules applying to deductions for dividends received.
246A.	Dividends received deduction reduced where portfolio stock is debt financed.
247.	Dividends paid on certain preferred stock of public utilities.
248.	Organizational expenditures.
249.	Limitation on deduction of bond premium on repurchase.
[250.]	Repealed.]

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11801(b)(4), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 250 “Certain payments to the National Railroad Passenger Corporation”.

1984—Pub. L. 98-369, div. A, title I, §51(b), July 18, 1984, 98 Stat. 564, added item 246A.

1976—Pub. L. 94-455, title XIX, §1901(b)(1)(AA), Oct. 4, 1976, 90 Stat. 1792, struck out item 242 “Partially tax-exempt interest”.

1970—Pub. L. 91-518, title IX, §901(b), Oct. 30, 1970, 84 Stat. 1342, added item 250.

1969—Pub. L. 91-172, title IV, §414(b), Dec. 30, 1969, 83 Stat. 613, added item 249.

§ 241. Allowance of special deductions

In addition to the deductions provided in part VI (sec. 161 and following), there shall be allowed as deductions in computing taxable income the items specified in this part.

(Aug. 16, 1954, ch. 736, 68A Stat. 72.)

[§ 242. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(33), Oct. 4, 1976, 90 Stat. 1769]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 72; Feb. 26, 1964, Pub. L. 88-272, title I, § 123(c), 78 Stat. 30, allowed to corporations as a deduction the amount received as interest on obligations of the United States or on obligations of corporations organized under Acts of Congress which are instrumentalities of the United States under certain conditions.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

§ 243. Dividends received by corporations

(a) General rule

In the case of a corporation, there shall be allowed as a deduction an amount equal to the following percentages of the amount received as dividends from a domestic corporation which is subject to taxation under this chapter:

- (1) 70 percent, in the case of dividends other than dividends described in paragraph (2) or (3);
- (2) 100 percent, in the case of dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (15 U.S.C. 661 and following); and
- (3) 100 percent, in the case of qualifying dividends (as defined in subsection (b)(1)).

(b) Qualifying dividends

(1) In general

For purposes of this section, the term “qualifying dividend” means any dividend received by a corporation—

- (A) if at the close of the day on which such dividend is received, such corporation is a member of the same affiliated group as the corporation distributing such dividend, and
- (B) if—

- (i) such dividend is distributed out of the earnings and profits of a taxable year of the distributing corporation which ends after December 31, 1963, for which an election under section 1562 was not in effect, and on each day of which the distributing corporation and the corporation receiving the dividend were members of such affiliated group, or
 - (ii) such dividend is paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividend is paid.

(2) Affiliated group

For purposes of this subsection:

(A) In general

The term “affiliated group” has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

(B) Group must be consistent in foreign tax treatment

The requirements of paragraph (1)(A) shall not be treated as being met with respect to

any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

- (i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and
- (ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.

(3) Special rule for groups which include life insurance companies

(A) In general

In the case of an affiliated group which includes 1 or more insurance companies under section 801, no dividend by any member of such group shall be treated as a qualifying dividend unless an election under this paragraph is in effect for the taxable year in which the dividend is received. The preceding sentence shall not apply in the case of a dividend described in paragraph (1)(B)(ii).

(B) Effect of election

If an election under this paragraph is in effect with respect to any affiliated group—

- (i) part II of subchapter B of chapter 6 (relating to certain controlled corporations) shall be applied with respect to the members of such group without regard to sections 1563(a)(4) and 1563(b)(2)(D), and
- (ii) for purposes of this subsection, a distribution by any member of such group which is subject to tax under section 801 shall not be treated as a qualifying dividend if such distribution is out of earnings and profits for a taxable year for which an election under this paragraph is not effective and for which such distributing corporation was not a component member of a controlled group of corporations within the meaning of section 1563 solely by reason of section 1563(b)(2)(D).

(C) Election

An election under this paragraph shall be made by the common parent of the affiliated group and at such time and in such manner as the Secretary shall by regulations prescribe. Any such election shall be binding on all members of such group and may be revoked only with the consent of the Secretary.

(c) Retention of 80-percent dividends received deduction for dividends from 20-percent owned corporations

(1) In general

In the case of any dividend received from a 20-percent owned corporation—

- (A) subsection (a)(1) of this section, and
- (B) subsections (a)(3) and (b)(2) of section 244,

shall be applied by substituting “80 percent” for “70 percent”.

(2) 20-percent owned corporation

For purposes of this section, the term “20-percent owned corporation” means any corporation if 20 percent or more of the stock of

such corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account.

(d) Special rules for certain distributions

For purposes of subsection (a)—

(1) Any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.) shall not be treated as a dividend.

(2) A dividend received from a regulated investment company shall be subject to the limitations prescribed in section 854.

(3) Any dividend received from a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following) shall not be treated as a dividend.

(4) Any dividend received which is described in section 244 (relating to dividends received on preferred stock of a public utility) shall not be treated as a dividend.

(e) Certain dividends from foreign corporations

For purposes of subsection (a) and for purposes of section 245, any dividend from a foreign corporation from earnings and profits accumulated by a domestic corporation during a period with respect to which such domestic corporation was subject to taxation under this chapter (or corresponding provisions of prior law) shall be treated as a dividend from a domestic corporation which is subject to taxation under this chapter.

(Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 85-866, title I, § 57(b), Sept. 2, 1958, 72 Stat. 1645; Pub. L. 86-779, §§ 3(a), 10(g), Sept. 14, 1960, 74 Stat. 998, 1009; Pub. L. 88-272, title II, § 214(a), Feb. 26, 1964, 78 Stat. 52; Pub. L. 90-364, title I, § 103(e)(2), June 28, 1968, 82 Stat. 264; Pub. L. 91-172, title V, § 504(c)(1), Dec. 30, 1969, 83 Stat. 633; Pub. L. 94-12, title III, § 304(b), Mar. 29, 1975, 89 Stat. 45; Pub. L. 94-455, title X, §§ 1031(b)(2), 1051(f)(1), (2), title XIX, § 1901(a)(34), (b)(1)(J)(ii), (21)(A)(i), 1906(b)(3)(C)(ii), (13)(A), Oct. 4, 1976, 90 Stat. 1622, 1646, 1769, 1791, 1797, 1833, 1834; Pub. L. 97-34, title II, § 232(b)(2), Aug. 13, 1981, 95 Stat. 250; Pub. L. 98-369, div. A, title II, § 211(b)(3), July 18, 1984, 98 Stat. 754; Pub. L. 99-514, title IV, § 411(b)(2)(C)(iv), title VI, § 611(a)(1), Oct. 22, 1986, 100 Stat. 2227, 2249; Pub. L. 100-203, title X, § 10221(a)(1), (b), Dec. 22, 1987, 101 Stat. 1330-408; Pub. L. 100-647, title I, § 1010(f)(4), Nov. 10, 1988, 102 Stat. 3454; Pub. L. 101-508, title XI, § 11814(a), Nov. 5, 1990, 104 Stat. 1388-556; Pub. L. 104-188, title I, § 1702(h)(4), (8), Aug. 20, 1996, 110 Stat. 1873, 1874.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (a)(2), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§ 661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

Section 1562, referred to in subsec. (b)(1)(B)(i), was repealed by Pub. L. 91-172, title IV, § 401(a)(2), Dec. 30, 1969, 83 Stat. 600.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-188, § 1702(h)(8), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘affiliated group’ has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.”

Subsec. (b)(3)(A). Pub. L. 104-188, § 1702(h)(4), inserted “of” after “In the case”.

1990—Subsec. (b). Pub. L. 101-508 amended subsec. (b) generally, substituting present provisions for provisions defining “qualifying dividends”, providing for an election by or for an affiliated group, the effect of an election, and the termination of an election, defining an “affiliated group”, and providing special rules for insurance companies.

1988—Subsec. (b)(6). Pub. L. 100-647 substituted “section 801” for “section 801 or 821”.

1987—Subsec. (a)(1). Pub. L. 100-203, § 10221(a)(1), substituted “70 percent” for “80 percent”.

Subsecs. (c) to (e). Pub. L. 100-203, § 10221(b), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1986—Subsec. (a)(1). Pub. L. 99-514, § 611(a)(1), substituted “80 percent” for “85 percent”.

Subsec. (b)(3)(C). Pub. L. 99-514, § 411(b)(2)(C)(iv), inserted “and” at end of cl. (i), redesignated cl. (iii) as (ii), and struck out former cl. (ii) which read as follows: “\$400,000 limitation for certain exploration expenditures under section 617(h)(1), and”.

1984—Subsec. (b)(3)(C). Pub. L. 98-369, § 211(b)(3)(A), inserted “and” at end of cl. (ii), struck out cl. (iii) which provided for a \$25,000 limitation on small business deduction of life insurance companies under sections 804(a)(3) and 809(d)(10), and redesignated cl. (iv) as (iii).

Subsec. (b)(6). Pub. L. 98-369, § 211(b)(3)(B), substituted “section 801” for “section 802”.

1981—Subsec. (b)(3)(C)(i). Pub. L. 97-34 struck out “\$150,000” before “minimum accumulated earnings credit”.

1976—Subsec. (a)(2). Pub. L. 94-455, § 1901(a)(34)(A), inserted “(15 U.S.C. 661 and following)” after “Small Business Investment Act of 1958”.

Subsec. (b)(1). Pub. L. 94-455, § 1051(f)(1), inserted “either” at end of subpar. (A), substituted a comma for a period and inserted “or” at end of subpar. (B), and added subpar. (C).

Subsec. (b)(2), (3), (4). Pub. L. 94-455, title XIX, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(2)(A). Pub. L. 94-455, § 1901(a)(34)(B), struck out “(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year)” after “with respect to which the election is made”.

Subsec. (b)(3)(B). Pub. L. 94-455, § 1031(b)(2), substituted “election under section 901(a) (relating to allowance of foreign tax credit)” for “elections under section 901(a) (relating to allowance of foreign tax credit) and section 904(b)(1) (relating to election of overall limitation)”.

Subsec. (b)(3)(C). Pub. L. 94-455, §§ 1901(b)(1)(J)(ii), (21)(A)(i), 1906(b)(3)(C)(ii), struck out cl. (i) which set a \$100,000 limitation for exploration expenditures under section 615 (a) and (b), redesignated former cls. (iii), (iv), and (v) as cls. (ii), (iii), and (iv), respectively, and substituted “certain exploration expenditures under section 617(h)(1)” for “exploration expenditures under sections 615(c)(1) and 617(h)(1)” in cl. (ii) as so redesignated, “804(a)(3)” for “804(a)(4)” in cl. (iii) as so redesignated, and “section 6154(c)(2) and section 6655(e)(2)” for “sections 6154(c)(2) and (3) and sections 6655(e)(2) and (3)” in cl. (iv) as so redesignated.

Subsec. (b)(5). Pub. L. 94-455, §1051(f)(2), inserted “, 1504(b)(4),” after “sections 1504(b)(2)”.

1975—Subsec. (b)(3)(C)(i). Pub. L. 94-12 substituted “\$150,000” for “\$100,000”.

1969—Subsec. (b)(3)(C)(iii). Pub. L. 91-172 substituted “sections 615(c)(1) and 617(h)(1)” for “section 615(c)(1)”.

1968—Subsec. (b)(3)(C)(v). Pub. L. 90-364 substituted “surtax exemption, and one amount under section 6154(c)(2) and (3) and sections 6655(e)(2) and (3), for purposes of estimated tax payment requirements under section 6154” for “\$100,000 exemption for purposes of estimated tax filing requirements under section 6016”.

1964—Subsec. (a). Pub. L. 88-272 substituted provisions permitting a deduction for 85 percent of dividends received except that it shall be 100 percent when received by a small business investment company operating under the Small Business Investment Act of 1958, and 100 percent in case of qualifying dividends, for provisions permitting an 85 percent deduction for corporations other than one operating under the Small Business Investment Act of 1958, and for other than dividends described in section 244(1) of this title.

Subsec. (b). Pub. L. 88-272 added subsec. (b) and omitted a prior subsec. (b) which allowed a 100 percent deduction of dividends received by a small business investment company operating under the Small Business Investment Act of 1958, other than dividends described in section 244(1) of this title.

Subsec. (c). Pub. L. 88-272 substituted “subsection (a)” for “subsections (a) and (b)” and added par. (4).

Subsec. (d). Pub. L. 88-272 substituted “subsection (a)” for “subsections (a) and (b)”.

1960—Subsec. (c)(3). Pub. L. 86-779, §10(g), added par. (3).

Subsec. (d). Pub. L. 86-779, §3(a), added subsec. (d).

1958—Subsec. (a). Pub. L. 85-866, §57(b)(1), inserted “(other than a small business investment company operating under the Small Business Investment Act of 1958)”.

Subsecs. (b), (c). Pub. L. 85-866, §57(b)(2), (3), added subsec. (b), redesignated former subsec. (b) as (c), and substituted “subsections (a) and (b)” for “subsection (a)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11814(c) of Pub. L. 101-508 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 1504 of this title] shall apply to taxable years beginning after December 31, 1990.

“(2) TREATMENT OF OLD ELECTIONS.—For purposes of section 243(b)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any reference to an election under such section shall be treated as including a reference to an election under section 243(b) of such Code (as in effect on the day before the date of the enactment of this Act [Nov. 5, 1990]).”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10221(e) of Pub. L. 100-203, as amended by Pub. L. 100-647, title II, §2004(i)(1), Nov. 10, 1988, 102 Stat. 3603, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this

section and sections 244 to 246A, 805, 854, and 861 of this title] shall apply to dividends received or accrued after December 31, 1987, in taxable years ending after such date.

“(2) AMENDMENTS RELATING TO LIMITATIONS.—The amendments made by subsection (c) [amending sections 246 and 805 of this title] shall apply to taxable years beginning after December 31, 1987.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 411(b)(2)(C)(iv) of Pub. L. 99-514 applicable, except as otherwise provided, to costs paid or incurred after Dec. 31, 1986, in taxable years ending after such date, see section 411(c) of Pub. L. 99-514 set out as a note under section 263 of this title.

Amendment by section 611(a)(1) of Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b) of Pub. L. 99-514, set out as a note under section 246 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 232(c) of Pub. L. 97-34, set out as a note under section 535 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1031(b)(2) of Pub. L. 94-455, see section 1031(c) of Pub. L. 94-455, set out as a note set out under section 904 of this title.

For effective date of amendment by section 1051(f)(1), (2) of Pub. L. 94-455, see section 1051(i) of Pub. L. 94-455, set out as a note under section 27 of this title.

Amendment by section 1901(a)(34), (b)(1), (21) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

For effective date of amendment by section 1906(b)(3)(C)(ii) of Pub. L. 94-455, see section 1906(d) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, see section 305(c) of Pub. L. 94-12, set out as a note under section 535 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 504(d) of Pub. L. 91-172, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 381, 615, 617, 703, and 1016 of this title] shall apply with respect to exploration expenditures paid or incurred after December 31, 1969.

“(2) PRESUMPTION OF ELECTION UNDER SECTION 617.—For purposes of section 617 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], an election under section 615(e) of such Code, which is effective with respect to exploration expenditures paid or incurred before January 1, 1970, shall be treated as an election under section 617(a) of such Code with respect to exploration expenditures paid or incurred after December 31, 1969. The preceding sentence shall not apply to any taxpayer who notifies the Secretary of the Treasury or his delegate (at such time and in such manner as the Secretary or his delegate prescribes by regulations) that he does not desire his election under section 615(e) to be so treated.”

EFFECTIVE DATE OF 1968 AMENDMENT

Section 103(f) of Pub. L. 90-364 provided that: “Except as provided by section 104 [formerly set out as notes

under sections 51 and 6154 of this title], the amendments made by this section [enacting section 6425, amending this section and sections 6020, 6154, 6651, 6655, 7203, and 7701, and repealing sections 6016 and 6074 of this title] shall apply with respect to taxable years beginning after December 31, 1967.”

EFFECTIVE DATE OF 1964 AMENDMENT

Section 214(c) of Pub. L. 88-272 provided that: “The amendments made by subsections (a) [amending this section] and (b) [amending sections 244, 246, 804, and 809 of this title] shall apply with respect to dividends received in taxable years ending after December 31, 1963.”

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3(c) of Pub. L. 86-779 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 861 of this title] shall apply to dividends received after December 31, 1959, in taxable years ending after such date.”

Amendment by section 10(g) of Pub. L. 86-779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86-779, set out as an Effective Date note under section 856 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 57(d) of Pub. L. 85-866 provided that: “The amendments made by this section [enacting sections 1242 and 1243 and amending this section and sections 165 and 246 of this title] shall apply with respect to taxable years beginning after the date of the enactment of this Act [Sept. 2, 1958].”

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 244. Dividends received on certain preferred stock

(a) General rule

In the case of a corporation, there shall be allowed as a deduction an amount computed as follows:

(1) First determine the amount received as dividends on the preferred stock of a public utility which is subject to taxation under this chapter and with respect to which the deduction provided in section 247 for dividends paid is allowable.

(2) Then multiply the amount determined under paragraph (1) by the fraction—

(A) the numerator of which is 14 percent, and

(B) the denominator of which is that percentage which equals the highest rate of tax specified in section 11(b).

(3) Finally ascertain the amount which is 70 percent of the excess of—

(A) the amount determined under paragraph (1), over

(B) the amount determined under paragraph (2).

(b) Exception

If the dividends described in subsection (a)(1) are qualifying dividends (as defined in section 243(b)(1), but determined without regard to section 243(d)(4))—

(1) subsection (a) shall be applied separately to such qualifying dividends, and

(2) for purposes of subsection (a)(3), the percentage applicable to such qualifying dividends shall be 100 percent in lieu of 70 percent.

(Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 88-272, title II, § 214(b)(1), Feb. 26, 1964, 78 Stat. 55; Pub. L. 95-600, title III, § 301(b)(3), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 99-514, title VI, § 611(a)(2), Oct. 22, 1986, 100 Stat. 2249; Pub. L. 100-203, title X, § 10221(a)(2), Dec. 22, 1987, 101 Stat. 1330-408; Pub. L. 100-647, title II, § 2004(i)(2), Nov. 10, 1988, 102 Stat. 3603.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-647 substituted “section 243(d)(4)” for “section 243(c)(4)”.

1987—Subsecs. (a)(3), (b)(2). Pub. L. 100-203 substituted “70 percent” for “80 percent”.

1986—Subsecs. (a)(3), (b)(2). Pub. L. 99-514 substituted “80 percent” for “85 percent”.

1978—Subsec. (a)(2)(B). Pub. L. 95-600 substituted “the highest rate of tax specified in section 11(b)” for “the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11”.

1964—Pub. L. 88-272 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b) of Pub. L. 99-514, set out as a note under section 246 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to dividends received in taxable years ending after Dec. 31, 1963, see section 214(c) of Pub. L. 88-272, set out as a note under section 243 of this title.

§ 245. Dividends received from certain foreign corporations

(a) Dividends from 10-percent owned foreign corporations

(1) In general

In the case of dividends received by a corporation from a qualified 10-percent owned foreign corporation, there shall be allowed as a deduction an amount equal to the percent (specified in section 243 for the taxable year) of the U.S.-source portion of such dividends.

(2) Qualified 10-percent owned foreign corporation

For purposes of this subsection, the term “qualified 10-percent owned foreign corpora-

tion” means any foreign corporation (other than a passive foreign investment company) if at least 10 percent of the stock of such corporation (by vote and value) is owned by the taxpayer.

(3) U.S.-source portion

For purposes of this subsection, the U.S.-source portion of any dividend is an amount which bears the same ratio to such dividend as—

- (A) the post-1986 undistributed U.S. earnings, bears to
- (B) the total post-1986 undistributed earnings.

(4) Post-1986 undistributed earnings

For purposes of this subsection, the term “post-1986 undistributed earnings” has the meaning given to such term by section 902(c)(1).

(5) Post-1986 undistributed U.S. earnings

For purposes of this subsection, the term “post-1986 undistributed U.S. earnings” means the portion of the post-1986 undistributed earnings which is attributable to—

- (A) income of the qualified 10-percent owned foreign corporation which is effectively connected with the conduct of a trade or business within the United States and subject to tax under this chapter, or
- (B) any dividend received (directly or through a wholly owned foreign corporation) from a domestic corporation at least 80 percent of the stock of which (by vote and value) is owned (directly or through such wholly owned foreign corporation) by the qualified 10-percent owned foreign corporation.

(6) Special rule

If the 1st day on which the requirements of paragraph (2) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1986, the post-1986 undistributed earnings and the post-1986 undistributed U.S. earnings of such corporation shall be determined by only taking into account periods beginning on and after the 1st day of the 1st taxable year in which such requirements are met.

(7) Coordination with subsection (b)

Earnings and profits of any qualified 10-percent owned foreign corporation for any taxable year shall not be taken into account under this subsection if the deduction provided by subsection (b) would be allowable with respect to dividends paid out of such earnings and profits.

(8) Disallowance of foreign tax credit

No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation.

(9) Coordination with section 904

For purposes of section 904, the U.S.-source portion of any dividend received by a corpora-

tion from a qualified 10-percent owned foreign corporation shall be treated as from sources in the United States.

(10) Coordination with treaties

If—

(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend).

(11) Coordination with section 1248

For purposes of this subsection, the term “dividend” does not include any amount treated as a dividend under section 1248.

(b) Certain dividends received from wholly owned foreign subsidiaries

(1) In general

In the case of dividends described in paragraph (2) received from a foreign corporation by a domestic corporation which, for its taxable year in which such dividends are received, owns (directly or indirectly) all of the outstanding stock of such foreign corporation, there shall be allowed as a deduction (in lieu of the deduction provided by subsection (a)) an amount equal to 100 percent of such dividends.

(2) Eligible dividends

Paragraph (1) shall apply only to dividends which are paid out of the earnings and profits of a foreign corporation for a taxable year during which—

- (A) all of its outstanding stock is owned (directly or indirectly) by the domestic corporation to which such dividends are paid; and
- (B) all of its gross income from all sources is effectively connected with the conduct of a trade or business within the United States.

(3) Exception

Paragraph (1) shall not apply to any dividends if an election under section 1562 is effective for either—

- (A) the taxable year of the domestic corporation in which such dividends are received, or
- (B) the taxable year of the foreign corporation out of the earnings and profits of which such dividends are paid.

(c) Certain dividends received from FSC

(1) In general

In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

- (A) 100 percent of any dividend received from another corporation which is distrib-

uted out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

(2) Exception for certain dividends

Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

(3) No deduction under subsection (a) or (b)

No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

(4) Definitions

For purposes of this subsection—

(A) Foreign trade income; exempt foreign trade income

The terms “foreign trade income” and “exempt foreign trade income” have the respective meanings given such terms by section 923.

(B) Effectively connected income

The term “effectively connected income” means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income.

(C) FSC

The term “FSC” has the meaning given such term by section 922.

(5) References to prior law

Any reference in this subsection to section 922, 923, or 927 shall be treated as a reference to such section as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.

(Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 87-834, §5(c), Oct. 16, 1962, 76 Stat. 977; Pub. L. 89-809, title I, §104(d), (e), Nov. 13, 1966, 80 Stat. 1558; Pub. L. 98-369, div. A, title VIII, §801(b)(1), (2)(B), July 18, 1984, 98 Stat. 994, 995; Pub. L. 99-514, title XII, §1226(a), title XVIII, §1876(d)(1), (j), Oct. 22, 1986, 100 Stat. 2559, 2898, 2900; Pub. L. 100-203, title X, §10221(d)(1), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §§1006(e)(16), 1012(l)(2), (3), (bb)(9)(A), Nov. 10, 1988, 102 Stat. 3403, 3513, 3537; Pub. L. 101-239, title VII, §7811(i)(14), Dec. 19, 1989, 103 Stat. 2411; Pub. L. 108-357, title IV, §413(c)(3), Oct. 22, 2004,

118 Stat. 1507; Pub. L. 110-172, §11(g)(3), (4), Dec. 29, 2007, 121 Stat. 2490.)

REFERENCES IN TEXT

Section 1562, referred to in subsec. (b)(3), was repealed by Pub. L. 91-172, title IV, §401(a)(2), Dec. 30, 1969, 83 Stat. 600.

The FSC Repeal and Extraterritorial Income Exclusion Act of 2000, referred to in subsec. (c)(5), is Pub. L. 106-519, Nov. 15, 2000, 114 Stat. 2423. For complete classification of this Act to the Code, see Short Title of 2000 Amendments note set out under section 1 of this title and Tables.

AMENDMENTS

2007—Subsec. (c)(4)(C). Pub. L. 110-172, §11(g)(3), added subpar. (C).

Subsec. (c)(5). Pub. L. 110-172, §11(g)(4), added par. (5).

2004—Subsec. (a)(2). Pub. L. 108-357 struck out “foreign personal holding company or” after “(other than a”.

1989—Subsec. (a)(8). Pub. L. 101-239 made clarifying amendment to directory language of Pub. L. 100-647, §1012(l)(2)(A), see 1988 Amendment note below.

1988—Subsec. (a)(8). Pub. L. 100-647, §1012(l)(2)(A), as amended by Pub. L. 101-239, substituted “Disallowance of foreign tax credit” for “Coordination with section 902” in heading and amended text generally. Prior to amendment, text read as follows: “In the case of a dividend received by a corporation from a qualified 10-percent owned foreign corporation, no credit shall be allowed under section 901 for any taxes treated as paid under section 902 with respect to the U.S.-source portion of such dividend.”

Subsec. (a)(10), (11). Pub. L. 100-647, §1012(l)(2)(B), (3), added pars. (10) and (11).

Subsec. (c). Pub. L. 100-647, §1012(bb)(9)(A), amended subsec. (c) generally, revising and restating provisions of pars. (1) to (4).

Subsec. (d). Pub. L. 100-647, §1006(e)(16), struck out subsec. (d) which read as follows: “PROPERTY DISTRIBUTIONS.—For purposes of this section, the amount of any distribution of property other than money shall be the amount determined by applying section 301(b)(1)(B).”

1987—Subsec. (c)(1)(B). Pub. L. 100-203 substituted “70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))” for “85 percent”.

1986—Subsec. (a). Pub. L. 99-514, §1226(a), in amending subsec. (a) generally, substituted “Dividends from 10-percent owned foreign corporations” for “General rule” as heading, and in text substituted provisions set out in nine numbered paragraphs allowing for deduction for dividends received from certain foreign corporations qualifying as “10-percent owned foreign corporations” for former provisions which directed that, in the case of dividends received from a foreign corporation (other than a foreign personal holding company) which was subject to taxation under this chapter, if, for an uninterrupted period of not less than 36 months ending with the close of such foreign corporation’s taxable year in which such dividends were paid (or, if the corporation had not been in existence for 36 months at the close of such taxable year, for the period the foreign corporation had been in existence as of the close of such taxable year) such foreign corporation had been engaged in trade or business within the United States and if 50 percent or more of the gross income of such corporation from all sources for such period was effectively connected with the conduct of a trade or business within the United States, there was allowed as a deduction in the case of a corporation a percentage of dividends received.

Subsec. (c)(1). Pub. L. 99-514, §1876(d)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of

earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend.”

Subsec. (c)(3). Pub. L. 99-514, §1876(j), added par. (3). Former par. (3) redesignated (4).

Pub. L. 99-514, §1876(d)(1)(B), inserted “For purposes of this subsection, the term ‘qualified interest and carrying charges’ means any interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income.”

Subsec. (c)(4). Pub. L. 99-514, §1876(j), redesignated former par. (3) as (4).

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c), redesignated former subsec. (c) as (d), and substituted therein “this section” for “subsections (a) and (b)”.

1966—Subsec. (a). Pub. L. 89-809, §104(d), (e)(2), substituted “and if 50 percent or more of the gross income of such corporation from all sources for such period is effectively connected with the conduct of a trade or business within the United States” for “and has derived 50 percent or more of its gross income from sources within the United States” in provisions preceding par. (1), “which is effectively connected with the conduct of a trade or business within the United States” for “from sources within the United States” in par. (1), “, which is effectively connected with the conduct of a trade or business within the United States,” for “from sources within the United States” in par. (2), and inserted provisions following par. (2).

Subsecs. (b), (c). Pub. L. 89-809, §104(e)(1), (3), added subsec. (b), redesignated former subsec. (b) as (c), and substituted therein “subsections (a) and (b)” for “subsection (a)”.

1962—Subsec. (b). Pub. L. 87-834 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1012(bb)(9)(B) of Pub. L. 100-647 provided that: “The amendment made by subparagraph (A) [amending this section] shall apply as if included in the provision of the Tax Reform Act of 1984 [Pub. L. 98-369, div. A] to which it relates.”

Amendment by sections 1006(e)(16) and 1012(l)(2), (3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1226(c)(1) of Pub. L. 99-514 provided that: “The amendment made by subsection (a) [amending

this section] shall apply to distributions out of earnings and profits for taxable years beginning after December 31, 1986.”

Amendment by section 1876(d)(1), (j) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 805(a) of title VIII of div. A of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, title XVIII, §1876(i), (o), (p)(4), Oct. 22, 1986, 100 Stat. 2095, 2900-2902, provided that:

“(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this title [enacting sections 921 to 927 of this title, amending this section and sections 246, 274, 275, 441, 901, 904, 906, 934, 936, 951, 956, 992, 993, 995, 996, 999, 1248, 6011, 6072, 6501, 6686, and 7651 of this title, and enacting provisions set out as notes under sections 921 and 991 of this title] shall apply to transactions after December 31, 1984, in taxable years ending after such date.

“(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, any event or activity required to occur or required to be performed, before January 1, 1985, by section 924(c) or (d) or 925(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as meeting the requirements of such section if such event or activity is with respect to—

“(A) any lease of more than 3 years duration which was entered into before January 1, 1985,

“(B) any contract with respect to which the taxpayer uses the completed contract method of accounting which was entered into before January 1, 1985, or

“(C) in the case of any contract other than a lease or contract described in subparagraph (A) or (B), any contract which was entered into before January 1, 1985; except that this subparagraph shall only apply to the first 3 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury or his delegate may prescribe.

“(3) SECTION 801(d)(10).—The amendment made by section 801(d)(10) [amending section 996 of this title] shall apply to distributions on or after June 22, 1984.

“(4) SECTION 803.—The amendments made by section 803 [amending section 441 of this title] shall apply to taxable years beginning after December 31, 1984.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89-809, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to distributions made after Dec. 31, 1962, see section 5(d) of Pub. L. 87-834, set out as a note under section 301 of this title.

DIVIDENDS RECEIVED OR ACCRUED DURING 1987

Section 1006(b)(1) of Pub. L. 100-647 provided that: “In the case of dividends received or accrued during 1987—

“(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting ‘80 percent’ for the percentage specified therein, and

“(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting ‘100ths’ for the fraction specified therein.”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147

and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

§ 246. Rules applying to deductions for dividends received

(a) Deduction not allowed for dividends from certain corporations

(1) In general

The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

(2) Subsection not to apply to certain dividends of Federal Home Loan Banks

(A) Dividends out of current earnings and profits

In the case of any dividend paid by any FHLB out of earnings and profits of the FHLB for the taxable year in which such dividend was paid, paragraph (1) shall not apply to that portion of such dividend which bears the same ratio to the total dividend as—

- (i) the dividends received by the FHLB from the FHLMC during such taxable year, bears to
- (ii) the total earnings and profits of the FHLB for such taxable year.

(B) Dividends out of accumulated earnings and profits

In the case of any dividend which is paid out of any accumulated earnings and profits of any FHLB, paragraph (1) shall not apply to that portion of the dividend which bears the same ratio to the total dividend as—

- (i) the amount of dividends received by such FHLB from the FHLMC which are out of earnings and profits of the FHLMC—
 - (I) for taxable years ending after December 31, 1984, and
 - (II) which were not previously treated as distributed under subparagraph (A) or this subparagraph, bears to
- (ii) the total accumulated earnings and profits of the FHLB as of the time such dividend is paid.

For purposes of clause (ii), the accumulated earnings and profits of the FHLB as of January 1, 1985, shall be treated as equal to its retained earnings as of such date.

(C) Coordination with section 243

To the extent that paragraph (1) does not apply to any dividend by reason of subparagraph (A) or (B) of this paragraph, the requirement contained in section 243(a) that the corporation paying the dividend be subject to taxation under this chapter shall not apply.

(D) Definitions

For purposes of this paragraph—

(i) FHLB

The term “FHLB” means any Federal Home Loan Bank.

(ii) FHLMC

The term “FHLMC” means the Federal Home Loan Mortgage Corporation.

(iii) Taxable year of FHLB

The taxable year of an FHLB shall, except as provided in regulations prescribed by the Secretary, be treated as the calendar year.

(iv) Earnings and profits

The earnings and profits of any FHLB for any taxable year shall be treated as equal to the sum of—

(I) any dividends received by the FHLB from the FHLMC during such taxable year, and

(II) the total earnings and profits (determined without regard to dividends described in subclause (I)) of the FHLB as reported in its annual financial statement prepared in accordance with section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440).

(b) Limitation on aggregate amount of deductions

(1) General rule

Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and subsection (a) or (b) of section 245 shall not exceed the percentage determined under paragraph (3) of the taxable income computed without regard to the deductions allowed by sections 172, 199, 243(a)(1), 244(a), subsection (a) or (b) of section 245, and 247, without regard to any adjustment under section 1059, and without regard to any capital loss carryback to the taxable year under section 1212(a)(1).

(2) Effect of net operating loss

Paragraph (1) shall not apply for any taxable year for which there is a net operating loss (as determined under section 172).

(3) Special rules

The provisions of paragraph (1) shall be applied—

(A) first separately with respect to dividends from 20-percent owned corporations (as defined in section 243(c)(2)) and the percentage determined under this paragraph shall be 80 percent, and

(B) then separately with respect to dividends not from 20-percent owned corporations and the percentage determined under this paragraph shall be 70 percent and the taxable income shall be reduced by the aggregate amount of dividends from 20-percent owned corporations (as so defined).

(c) Exclusion of certain dividends

(1) In general

No deduction shall be allowed under section 243, 244, or 245, in respect of any dividend on any share of stock—

(A) which is held by the taxpayer for 45 days or less during the 91-day period beginning on the date which is 45 days before the date on which such share becomes ex-dividend with respect to such dividend, or

(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

(2) 90-day rule in the case of certain preference dividends

In the case of stock having preference in dividends, if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days, paragraph (1)(A) shall be applied—

(A) by substituting “90 days” for “45 days” each place it appears, and

(B) by substituting “181-day period” for “91-day period”.

(3) Determination of holding periods

For purposes of this subsection, in determining the period for which the taxpayer has held any share of stock—

(A) the day of disposition, but not the day of acquisition, shall be taken into account, and

(B) paragraph (3) of section 1223 shall not apply.

(4) Holding period reduced for periods where risk of loss diminished

The holding periods determined for purposes of this subsection shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such periods) in which—

(A) the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities,

(B) the taxpayer is the grantor of an option to buy substantially identical stock or securities, or

(C) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar or related property.

The preceding sentence shall not apply in the case of any qualified covered call (as defined in section 1092(c)(4) but without regard to the requirement that gain or loss with respect to the option not be ordinary income or loss), other than a qualified covered call option to which section 1092(f) applies.

(d) Dividends from a DISC or former DISC

No deduction shall be allowed under section 243 in respect of a dividend from a corporation which is a DISC or former DISC (as defined in section 992(a)) to the extent such dividend is paid out of the corporation’s accumulated DISC income or previously taxed income, or is a deemed distribution pursuant to section 995(b)(1).

(e) Certain distributions to satisfy requirements

No deduction shall be allowed under section 243(a) with respect to a dividend received pursu-

ant to a distribution described in section 936(h)(4).

(Aug. 16, 1954, ch. 736, 68A Stat. 74; Pub. L. 85-866, title I, §§18(a), 57(c)(2), Sept. 2, 1958, 72 Stat. 1614, 1646; Pub. L. 88-272, title II, §214(b)(2), Feb. 26, 1964, 78 Stat. 55; Pub. L. 91-172, title IV, §434(b)(1), title V, §512(f)(3), Dec. 30, 1969, 83 Stat. 625, 641; Pub. L. 92-178, title V, §502(a), Dec. 10, 1971, 85 Stat. 549; Pub. L. 94-455, title X, §1051(f)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1646, 1834; Pub. L. 97-248, title II, §213(c), Sept. 3, 1982, 96 Stat. 465; Pub. L. 98-369, div. A, title I, §§53(b), (d)(2), 177(b), title VIII, §801(b)(2)(A), July 18, 1984, 98 Stat. 567, 568, 709, 995; Pub. L. 99-514, title VI, §611(a)(3), title XII, §1275(a)(2)(B), title XVIII, §§1804(b)(1)(A), (B), 1812(d)(1), Oct. 22, 1986, 100 Stat. 2249, 2598, 2798, 2835; Pub. L. 100-203, title X, §10221(c)(1), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §1018(u)(10), Nov. 10, 1988, 102 Stat. 3590; Pub. L. 104-188, title I, §1616(b)(4), Aug. 20, 1996, 110 Stat. 1856; Pub. L. 105-34, title X, §1015(a), (b), Aug. 5, 1997, 111 Stat. 921, 922; Pub. L. 108-311, title IV, §406(f), Oct. 4, 2004, 118 Stat. 1190; Pub. L. 108-357, title I, §102(d)(4), title VIII, §888(d), Oct. 22, 2004, 118 Stat. 1429, 1643; Pub. L. 109-135, title IV, §402(a)(4), Dec. 21, 2005, 119 Stat. 2610.)

AMENDMENTS

2005—Subsec. (c)(3)(B). Pub. L. 109-135 substituted “paragraph (3) of section 1223” for “paragraph (4) of section 1223”.

2004—Subsec. (b)(1). Pub. L. 108-357, §102(d)(4), inserted “199,” after “172.”

Subsec. (c)(1)(A). Pub. L. 108-311, §406(f)(1), substituted “91-day period” for “90-day period”.

Subsec. (c)(2)(B). Pub. L. 108-311, §406(f)(2), substituted “181-day period” for “180-day period” and “91-day period” for “90-day period”.

Subsec. (c)(4). Pub. L. 108-357, §888(d), inserted “, other than a qualified covered call option to which section 1092(f) applies” before period at end of concluding provisions.

1997—Subsec. (c)(1)(A). Pub. L. 105-34, §1015(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “which is held by the taxpayer for 45 days or less, or”.

Subsec. (c)(2). Pub. L. 105-34, §1015(b)(1), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “In the case of any stock having preference in dividends, the holding period specified in paragraph (1)(A) shall be 90 days in lieu of 45 days if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days.”

Subsec. (c)(3). Pub. L. 105-34, §1015(b)(2), inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: “there shall not be taken into account any day which is more than 45 days (or 90 days in the case of stock to which paragraph (2) applies) after the date on which such share becomes ex-dividend, and”.

1996—Subsec. (f). Pub. L. 104-188 struck out subsec. (f) which provided a cross reference to section 596 of this title for special rule relating to mutual savings banks, etc., to which section 593 applies.

1988—Subsec. (c)(1)(A). Pub. L. 100-647 substituted “which” for “Which”.

1987—Subsec. (b)(1). Pub. L. 100-203, §10221(c)(1)(A), substituted “the percentage determined under paragraph (3)” for “80 percent”.

Subsec. (b)(3). Pub. L. 100-203, §10221(c)(1)(B), added par. (3).

1986—Subsec. (a)(2)(B). Pub. L. 99-514, §1812(d)(1)(A), substituted “In” for “For purposes of subparagraph (A), in” in introductory provisions and substituted cl. (i)(II)

for former cl. (i)(II) which read as follows: “which were not taken into account under subparagraph (A), bears to”.

Subsec. (a)(2)(C), (D). Pub. L. 99-514, §1812(d)(1)(B), (C), added subpar. (C), redesignated former subpar. (C) as (D), and added cl. (iv) to subpar. (D).

Subsec. (b)(1). Pub. L. 99-514, §611(a)(3), substituted “80 percent” for “85 percent”.

Subsec. (c)(1)(A). Pub. L. 99-514, §1804(b)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “which is sold or otherwise disposed of in any case in which the taxpayer has held such share for 45 days or less, or”.

Subsec. (c)(4). Pub. L. 99-514, §1804(b)(1)(B), substituted “determined for purposes of this subsection” for “determined under paragraph (3)”.

Subsec. (e). Pub. L. 99-514, §1275(a)(2)(B), struck out “or 934(e)(3)” after “936(h)(4)”.

1984—Subsec. (a). Pub. L. 98-369, §177(b), amended subsec. (a) generally, designating existing provisions as par. (1) and adding par. (2).

Subsec. (b)(1). Pub. L. 98-369, §801(b)(2)(A), substituted “subsection (a) or (b) of section 245” for “245” in two places.

Pub. L. 98-369, §53(d)(2), substituted “without regard to any adjustment under section 1059, and without regard” for “and without regard”.

Subsec. (c)(1)(A). Pub. L. 98-369, §53(b)(1), substituted “45” for “15”.

Subsec. (c)(1)(B). Pub. L. 98-369, §53(b)(3), substituted “to make related payments with respect to positions in substantially similar or related property” for “to make corresponding payments with respect to substantially identical stock or securities”.

Subsec. (c)(2). Pub. L. 98-369, §53(b)(1), substituted “45” for “15”.

Subsec. (c)(3). Pub. L. 98-369, §53(b)(4), struck out last sentence which directed that the holding periods determined under the preceding provisions of this paragraph be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such holding periods) in which the taxpayer had an option to sell, was under a contractual obligation to sell, or had made (and not closed) a short sale of, substantially identical stock or securities.

Subsec. (c)(3)(B). Pub. L. 98-369, §53(b)(1), substituted “45” for “15”.

Subsec. (c)(4). Pub. L. 98-369, §53(b)(2), added par. (4). 1982—Subsecs. (e), (f). Pub. L. 97-248 added subsec. (e) and redesignated former subsec. (e) as (f).

1976—Subsec. (a). Pub. L. 94-455, §1051(f)(3), struck out references to dividends from corporations organized under the China Trade Act, 1922, and corporations to which section 931 (relating to income from sources within possessions of the United States) applies.

Subsec. (c)(3). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1971—Subsecs. (d), (e). Pub. L. 92-178 added subsec. (d) and redesignated former subsec. (d) as (e).

1969—Subsec. (b)(1). Pub. L. 91-172, §512(f)(3), substituted “and 247, and without regard to any capital loss carryback to the taxable year under section 1212(a)(1)” for “and 247”.

Subsec. (d). Pub. L. 91-172, §434(b)(1), added subsec. (d).

1964—Subsec. (b). Pub. L. 88-272 substituted “243(a)(1), 244(a)” for “243(a), 244” wherever appearing.

1958—Subsec. (b)(1). Pub. L. 85-866, §57(c)(2), substituted “243(a)” for “243” wherever appearing.

Subsec. (c). Pub. L. 85-866, §18(a), added subsec. (c).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which it relates, but not applicable with respect to any transaction ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) before its repeal, see section 402(m) of Pub. L. 109-135, set out as an Effective and Termination Dates of 2005 Amendments note under section 23 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by section 102(d)(4) of Pub. L. 108-357 applicable to taxable years beginning after Dec. 31, 2004, see section 102(e) of Pub. L. 108-357, set out as a note under section 56 of this title.

Pub. L. 108-357, title VIII, §888(e), Oct. 22, 2004, 118 Stat. 1643, provided that: “The amendments made by this section [amending this section and sections 1092 and 1258 of this title] shall apply to positions established on or after the date of the enactment of this Act [Oct. 22, 2004].”

Amendment by Pub. L. 108-311 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 406(h) of Pub. L. 108-311, set out as a note under section 55 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1015(c) of Pub. L. 105-34 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to dividends received or accrued after the 30th day after the date of the enactment of this Act [Aug. 5, 1997].

“(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to dividends received or accrued during the 2-year period beginning on the date of the enactment of this Act if—

“(A) the dividend is paid with respect to stock held by the taxpayer on June 8, 1997, and all times thereafter until the dividend is received,

“(B) such stock is continuously subject to a position described in section 246(c)(4) of the Internal Revenue Code of 1986 on June 8, 1997, and all times thereafter until the dividend is received, and

“(C) such stock and position are clearly identified in the taxpayer's records within 30 days after the date of the enactment of this Act.

Stock shall not be treated as meeting the requirement of subparagraph (B) if the position is sold, closed, or otherwise terminated and reestablished.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1995, see section 1616(c) of Pub. L. 104-188, set out as a note under section 593 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10221(e)(2) of Pub. L. 100-203, as amended, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 611(b) of Pub. L. 99-514 provided that:

“(1) IN GENERAL.—The amendments made by subsection (a) [amending this section and sections 243, 244, 246A, and 805 of this title] shall apply to dividends received or accrued after December 31, 1986, in taxable years ending after such date.

“(2) AMENDMENT RELATING TO LIMITATION ON DEDUCTIONS.—The amendment made by subsection (a) to section 246(b) of the Internal Revenue Code of 1986 shall apply to taxable years beginning after December 31, 1986.”

Amendment by section 1275(a)(2)(B) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

Section 1804(b)(1)(C) of Pub. L. 99-514 provided that: “The amendments made by this paragraph [amending

this section] shall apply to stock acquired after March 1, 1986.”

Amendment by section 1812(d)(1) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 53(d)(2) of Pub. L. 98-369 applicable to distributions after Mar. 1, 1984, in taxable years ending after such date, and amendment of subsec. (c) of this section by section 53(b) of Pub. L. 98-369, applicable to stock acquired after July 18, 1984, in taxable years ending after such date, see section 53(e)(1), (2) of Pub. L. 98-369, set out as an Effective Date note under section 1059 of this title.

Amendment by section 177(b) of Pub. L. 98-369, effective Jan. 1, 1985, see section 177(d) of Pub. L. 98-369, set out as a note under section 172 of this title.

Amendment by section 801(b)(2)(A) of Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 213(e)(1) of Pub. L. 97-248, set out as a note under section 936 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1051(f)(3) of Pub. L. 94-455, see section 1051(i) of Pub. L. 94-455, set out as a note under section 27 of this title.

Amendment by section 1906(b)(13)(A) of Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92-178, set out as an Effective Date note under section 991 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 512(f)(3) of Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

Section 434(c) of Pub. L. 91-172 provided that: “The amendments made by this section [enacting section 596 of this title and amending this section] shall apply to taxable years beginning after July 11, 1969.”

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to dividends received in taxable years ending after Dec. 31, 1963, see section 214(c) of Pub. L. 88-272, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 18(b) of Pub. L. 85-866 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1957, but only with respect to shares of stock acquired or short sales made after December 31, 1957.”

Amendment by section 57(c)(2) of Pub. L. 85-866 applicable with respect to taxable years beginning after Sept. 2, 1958, see section 57(d) of Pub. L. 85-866, set out as a note under section 243 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 246A. Dividends received deduction reduced where portfolio stock is debt financed

(a) General rule

In the case of any dividend on debt-financed portfolio stock, there shall be substituted for the percentage which (but for this subsection) would be used in determining the amount of the deduction allowable under section 243, 244, or 245(a) a percentage equal to the product of—

- (1) 70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2)), and
- (2) 100 percent minus the average indebtedness percentage.

(b) Section not to apply to dividends for which 100 percent dividends received deduction allowable

Subsection (a) shall not apply to—

- (1) qualifying dividends (as defined in section 243(b) without regard to section 243(d)(4)), and
- (2) dividends received by a small business investment company operating under the Small Business Investment Act of 1958.

(c) Debt financed portfolio stock

For purposes of this section—

(1) In general

The term “debt financed portfolio stock” means any portfolio stock if at some time during the base period there is portfolio indebtedness with respect to such stock.

(2) Portfolio stock

The term “portfolio stock” means any stock of a corporation unless—

(A) as of the beginning of the ex-dividend date, the taxpayer owns stock of such corporation—

- (i) possessing at least 50 percent of the total voting power of the stock of such corporation, and
- (ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

(B) as of the beginning of the ex-dividend date—

- (i) the taxpayer owns stock of such corporation which would meet the requirements of subparagraph (A) if “20 percent” were substituted for “50 percent” each place it appears in such subparagraph, and
- (ii) stock meeting the requirements of subparagraph (A) is owned by 5 or fewer corporate shareholders.

(3) Special rule for stock in a bank or bank holding company

(A) In general

If, as of the beginning of the ex-dividend date, the taxpayer owns stock of any bank

or bank holding company having a value equal to at least 80 percent of the total value of the stock of such bank or bank holding company, for purposes of paragraph (2)(A)(i), the taxpayer shall be treated as owning any stock of such bank or bank holding company which the taxpayer has an option to acquire.

(B) Definitions

For purposes of subparagraph (A)—

(i) Bank

The term “bank” has the meaning given such term by section 581.

(ii) Bank holding company

The term “bank holding company” means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

(4) Treatment of certain preferred stock

For purposes of determining whether the requirements of subparagraph (A) or (B) of paragraph (2) or of subparagraph (A) of paragraph (3) are met, stock described in section 1504(a)(4) shall not be taken into account.

(d) Average indebtedness percentage

For purposes of this section—

(1) In general

Except as provided in paragraph (2), the term “average indebtedness percentage” means the percentage obtained by dividing—

(A) the average amount (determined under regulations prescribed by the Secretary) of the portfolio indebtedness with respect to the stock during the base period, by

(B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of the stock during the base period.

(2) Special rule where stock not held throughout base period

In the case of any stock which was not held by the taxpayer throughout the base period, paragraph (1) shall be applied as if the base period consisted only of that portion of the base period during which the stock was held by the taxpayer.

(3) Portfolio indebtedness

(A) In general

The term “portfolio indebtedness” means any indebtedness directly attributable to investment in the portfolio stock.

(B) Certain amounts received from short sale treated as indebtedness

For purposes of subparagraph (A), any amount received from a short sale shall be treated as indebtedness for the period beginning on the day on which such amount is received and ending on the day the short sale is closed.

(4) Base period

The term “base period” means, with respect to any dividend, the shorter of—

(A) the period beginning on the ex-dividend date for the most recent previous dividend on the stock and ending on the day be-

fore the ex-dividend date for the dividend involved, or

(B) the 1-year period ending on the day before the ex-dividend date for the dividend involved.

(e) Reduction in dividends received deduction not to exceed allocable interest

Under regulations prescribed by the Secretary, any reduction under this section in the amount allowable as a deduction under section 243, 244, or 245 with respect to any dividend shall not exceed the amount of any interest deduction (including any deductible short sale expense) allocable to such dividend.

(f) Regulations

The regulations prescribed for purposes of this section under section 7701(f) shall include regulations providing for the disallowance of interest deductions or other appropriate treatment (in lieu of reducing the dividend received deduction) where the obligor of the indebtedness is a person other than the person receiving the dividend.

(Added Pub. L. 98-369, div. A, title I, §51(a), July 18, 1984, 98 Stat. 562; amended Pub. L. 99-514, title VI, §611(a)(4), title XVIII, §1804(a), Oct. 22, 1986, 100 Stat. 2249, 2798; Pub. L. 100-203, title X, §10221(d)(2), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §1012(i)(1), Nov. 10, 1988, 102 Stat. 3513; Pub. L. 108-311, title IV, §408(a)(9), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (b)(2), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

Section 2(a) of the Bank Holding Company Act of 1956, referred to in subsec. (c)(3)(B)(ii), is classified to section 1841(a) of Title 12, Banks and Banking.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-311 substituted “section 243(d)(4)” for “section 243(c)(4)”.

1988—Subsec. (a). Pub. L. 100-647 struck out at end “The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a).”

1987—Subsec. (a)(1). Pub. L. 100-203 substituted “70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))” for “80 percent”.

1986—Subsec. (a). Pub. L. 99-514, §1804(a), substituted “or 245(a)” for “or 245” and inserted “The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a).”

Subsec. (a)(1). Pub. L. 99-514, §611(a)(4), substituted “80 percent” for “85 percent”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 611(a)(4) of Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b) of Pub. L. 99-514, set out as a note under section 246 of this title.

Amendment by section 1804(a) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section 51(c) of Pub. L. 98-369 provided that: "The amendments made by this section [enacting this section] shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date."

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 247. Dividends paid on certain preferred stock of public utilities**(a) Amount of deduction**

In the case of a public utility, there shall be allowed as a deduction an amount computed as follows:

(1) First determine the amount which is the lesser of—

- (A) the amount of dividends paid during the taxable year on its preferred stock, or
- (B) the taxable income for the taxable year (computed without the deduction allowed by this section).

(2) Then multiply the amount determined under paragraph (1) by the fraction—

- (A) the numerator of which is 14 percent, and
- (B) the denominator of which is that percentage which equals the highest rate of tax specified in section 11(b).

For purposes of the deduction provided in this section, the amount of dividends paid shall not include any amount distributed in the current taxable year with respect to dividends unpaid and accumulated in any taxable year ending before October 1, 1942. Amounts distributed in the current taxable year with respect to dividends unpaid and accumulated for a prior taxable year shall for purposes of this subsection be deemed to be distributed with respect to the earliest year or years for which there are dividends unpaid and accumulated.

(b) Definitions

For purposes of this section and section 244—

(1) Public utility

The term "public utility" means a corporation engaged in the furnishing of telephone service or in the sale of electrical energy, gas, or water, if the rates for such furnishing or

sale, as the case may be, have been established or approved by a State or political subdivision thereof or by an agency or instrumentality of the United States or by a public utility or public service commission or other similar body of the District of Columbia or of any State or political subdivision thereof.

(2) Preferred stock**(A) In general**

The term "preferred stock" means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

(B) Certain stock issued on or after October 1, 1942

Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D)), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

(C) Determination under regulations

The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

(D) Issuance of stock

For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368(a)) or a transaction subject to part VI of subchapter O as in effect before its repeal (relating to exchanges in SEC obedience orders), or the respectively corresponding provisions of the Internal Revenue Code of 1939.

(Aug. 16, 1954, ch. 736, 68A Stat. 75; Pub. L. 94-455, title XIX, § 1901(a)(35), Oct. 4, 1976, 90 Stat. 1770; Pub. L. 95-600, title III, § 301(b)(4), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 101-508, title XI, § 11801(c)(8)(C), Nov. 5, 1990, 104 Stat. 1388-524; Pub. L. 104-188, title I, § 1704(t)(49), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 109-135, title IV, § 402(a)(5), Dec. 21, 2005, 119 Stat. 2610.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b)(2)(D), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

AMENDMENTS

2005—Subsec. (b)(2)(D). Pub. L. 109-135 inserted “as in effect before its repeal” after “part VI of subchapter O”.

1996—Subsec. (b)(2)(D). Pub. L. 104-188 provided that section 11801(c)(8)(C) of Pub. L. 101-508 shall be applied as if “reorganizations” appeared instead of “reorganization” in the material proposed to be stricken. See 1990 Amendment note below.

1990—Subsec. (b)(2)(D). Pub. L. 101-508 which directed that “, a transaction to which section 371 (relating to insolvency reorganization) applies,” be struck out was executed by striking out “, a transaction to which section 371 (relating to insolvency reorganizations) applies,” after “(as defined in section 368(a))”. See 1996 Amendment note above.

1978—Subsec. (a)(2)(B). Pub. L. 95-600 substituted “the highest rate of tax specified in section 11(b)” for “the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11”.

1976—Subsec. (b)(2). Pub. L. 94-455 divided existing provisions into subpars. (A), (B), (C), and (D), added headings for subpars. (A), (B), (C), and (D), and, in subpar. (C) as so redesignated, substituted “prescribed by the Secretary” for “prescribed by the Secretary or his delegate”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which it relates, but not applicable with respect to any transaction ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) before its repeal, see section 402(m) of Pub. L. 109-135, set out as an Effective and Termination Dates of 2005 Amendments note under section 23 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 248. Organizational expenditures

(a) Election to deduct

If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

(A) the amount of organizational expenditures with respect to the taxpayer, or

(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably

ably over the 180-month period beginning with the month in which the corporation begins business.

(b) Organizational expenditures defined

The term “organizational expenditures” means any expenditure which—

(1) is incident to the creation of the corporation;

(2) is chargeable to capital account; and

(3) is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

(c) Time for and scope of election

The election provided by subsection (a) may be made for any taxable year beginning after December 31, 1953, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years. The election shall apply only with respect to expenditures paid or incurred on or after August 16, 1954.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 94-455, title XIX, §§ 1901(a)(36), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1770, 1834; Pub. L. 108-357, title VIII, § 902(b), Oct. 22, 2004, 118 Stat. 1651.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Secretary, be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business).”

1976—Subsec. (a). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, § 1901(a)(36), substituted “August 16, 1954” for “the date of enactment of this title”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(36) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(b)(13)(A) of Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 249. Limitation on deduction of bond premium on repurchase

(a) General rule

No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issu-

ing corporation, or a corporation in control of, or controlled by, the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Secretary that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

(b) Special rules

For purposes of subsection (a)—

(1) Adjusted issue price

The adjusted issue price is the issue price (as defined in sections 1273(b) and 1274) increased by any amount of discount deducted before repurchase, or, in the case of bonds or other evidences of indebtedness issued after February 28, 1913, decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(2) Control

The term “control” has the meaning assigned to such term by section 368(c).

(Added Pub. L. 91-172, title IV, §414(a), Dec. 30, 1969, 83 Stat. 612; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, §42(a)(5), July 18, 1984, 98 Stat. 557.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “sections 1273(b) and 1274” for “section 1232(b)”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Section 414(c) of Pub. L. 91-172, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section] shall apply to a convertible bond or other convertible evidence of indebtedness repurchased after April 22, 1969, other than such a bond or other evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that section 249 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a) of this section) does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness.”

[§ 250. Repealed. Pub. L. 101-508, title XI, § 11801(a)(15), Nov. 5, 1990, 104 Stat. 1388-520]

Section, added Pub. L. 91-518, title IX, §901(a), Oct. 30, 1970, 84 Stat. 1341; amended Pub. L. 93-496, §12, Oct. 28, 1974, 88 Stat. 1531; Pub. L. 94-455, title XIX,

§1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-473, §2(a)(2)(C), Oct. 17, 1978, 92 Stat. 1464; Pub. L. 96-454, §3(b)(1), Oct. 15, 1980, 94 Stat. 2012; Pub. L. 97-261, §6(d)(3), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99-521, §4(3), Oct. 22, 1986, 100 Stat. 2993, related to certain payments to National Railroad Passenger Corporation.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

PART IX—ITEMS NOT DEDUCTIBLE

Sec.	
261.	General rule for disallowance of deductions.
262.	Personal, living, and family expenses.
263.	Capital expenditures.
263A.	Capitalization and inclusion in inventory costs of certain expenses.
264.	Certain amounts paid in connection with insurance contracts.
265.	Expenses and interest relating to tax-exempt income.
266.	Carrying charges.
267.	Losses, expenses, and interest with respect to transactions between related taxpayers.
268.	Sale of land with unharvested crop.
269.	Acquisitions made to evade or avoid income tax.
269A.	Personal service corporations formed or availed of to avoid or evade income tax.
269B.	Stapled entities.
[270.]	Repealed.]
271.	Debts owed by political parties, etc.
272.	Disposal of coal or domestic iron ore.
273.	Holders of life or terminable interest.
274.	Disallowance of certain entertainment, etc., expenses.
275.	Certain taxes.
276.	Certain indirect contributions to political parties.
277.	Deductions incurred by certain membership organizations in transactions with members.
[278.]	Repealed.]
279.	Interest on indebtedness incurred by corporation to acquire stock or assets of another corporation.
[280.]	Repealed.]
280A.	Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.
280B.	Demolition of structures.
280C.	Certain expenses for which credits are allowable.
[280D.]	Repealed.]
280E.	Expenditures in connection with the illegal sale of drugs.
280F.	Limitation on depreciation for luxury automobiles; limitation where certain property used for personal purposes.
280G.	Golden parachute payments.
280H.	Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years. ¹

AMENDMENTS

1996—Pub. L. 104-188, title I, §1704(t)(55), Aug. 20, 1996, 110 Stat. 1890, provided that section 11813(b)(13)(F) of Pub. L. 101-508 shall be applied as if “tax” appeared after “investment” in the material proposed to be stricken. See 1990 Amendment note below.

¹ So in original. Does not conform to section catchline.